

1 **TITLE IV—NUCLEAR MATTERS**
2 **Subtitle A—Price-Anderson Act**
3 **Amendments**

4 **SEC. 4001. SHORT TITLE.**

5 This subtitle may be cited as the “Price-Anderson
6 Amendments Act of 2003”.

7 **SEC. 4002. EXTENSION OF INDEMNIFICATION AUTHORITY.**

8 (a) INDEMNIFICATION OF NUCLEAR REGULATORY
9 COMMISSION LICENSEES.—Section 170 c. of the Atomic
10 Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

11 (1) in the subsection heading, by striking “LI-
12 CENSES” and inserting “LICENSEES”; and

13 (2) by striking “December 31, 2003” each
14 place it appears and inserting “August 1, 2017”.

15 (b) INDEMNIFICATION OF DEPARTMENT OF ENERGY
16 CONTRACTORS.—Section 170 d.(1)(A) of the Atomic En-
17 ergy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended
18 by striking “December 31, 2004” and inserting “August
19 1, 2017”.

20 (c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL
21 INSTITUTIONS.—Section 170 k. of the Atomic Energy Act
22 of 1954 (42 U.S.C. 2210(k)) is amended by striking “Au-
23 gust 1, 2002” each place it appears and inserting “August
24 1, 2017”.

1 **SEC. 4003. MAXIMUM ASSESSMENT.**

2 Section 170 b.(1) of the Atomic Energy Act of 1954
3 (42 U.S.C. 2210(b)(1)) is amended—

4 (1) in the second proviso of the third
5 sentence—

6 (A) by striking “\$63,000,000” and insert-
7 ing “\$94,000,000”; and

8 (B) by striking “\$10,000,000 in any 1
9 year” and inserting “\$15,000,000 in any 1 year
10 (subject to adjustment for inflation under sub-
11 section t.)”; and

12 (2) in subsection t.—

13 (A) by inserting “total and annual” after
14 “amount of the maximum”;

15 (B) by striking “the date of the enactment
16 of the Price-Anderson Amendments Act of
17 1988” and inserting “July 1, 2002”; and

18 (C) by striking “such date of enactment”
19 and inserting “July 1, 2002”.

20 **SEC. 4004. DEPARTMENT OF ENERGY LIABILITY LIMIT.**

21 (a) INDEMNIFICATION OF DEPARTMENT OF ENERGY
22 CONTRACTORS.—Section 170 d. of the Atomic Energy Act
23 of 1954 (42 U.S.C. 2210(d)) is amended by striking para-
24 graph (2) and inserting the following:

25 “(2) In an agreement of indemnification entered into
26 under paragraph (1), the Secretary—

1 “(A) may require the contractor to provide and
2 maintain the financial protection of such a type and
3 in such amounts as the Secretary shall determine to
4 be appropriate to cover public liability arising out of
5 or in connection with the contractual activity; and

6 “(B) shall indemnify the persons indemnified
7 against such liability above the amount of the finan-
8 cial protection required, in the amount of
9 \$10,000,000,000 (subject to adjustment for inflation
10 under subsection t.), in the aggregate, for all per-
11 sons indemnified in connection with the contract and
12 for each nuclear incident, including such legal costs
13 of the contractor as are approved by the Secretary.”.

14 (b) CONTRACT AMENDMENTS.—Section 170 d. of the
15 Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is
16 amended by striking paragraph (3) and inserting the fol-
17 lowing:

18 “(3) All agreements of indemnification under which
19 the Department of Energy (or its predecessor agencies)
20 may be required to indemnify any person under this sec-
21 tion shall be deemed to be amended, on the date of enact-
22 ment of the Price-Anderson Amendments Act of 2003, to
23 reflect the amount of indemnity for public liability and any
24 applicable financial protection required of the contractor
25 under this subsection.”.

1 (c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the
2 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is
3 amended—

4 (1) by striking “the maximum amount of finan-
5 cial protection required under subsection b. or”; and

6 (2) by striking “paragraph (3) of subsection d.,
7 whichever amount is more” and inserting “para-
8 graph (2) of subsection d.”.

9 **SEC. 4005. INCIDENTS OUTSIDE THE UNITED STATES.**

10 (a) AMOUNT OF INDEMNIFICATION.—Section 170
11 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C.
12 2210(d)(5)) is amended by striking “\$100,000,000” and
13 inserting “\$500,000,000”.

14 (b) LIABILITY LIMIT.—Section 170 e.(4) of the
15 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is
16 amended by striking “\$100,000,000” and inserting
17 “\$500,000,000”.

18 **SEC. 4006. REPORTS.**

19 Section 170 p. of the Atomic Energy Act of 1954 (42
20 U.S.C. 2210(p)) is amended by striking “August 1, 1998”
21 and inserting “August 1, 2013”.

22 **SEC. 4007. INFLATION ADJUSTMENT.**

23 Section 170 t. of the Atomic Energy Act of 1954 (42
24 U.S.C. 2210(t)) is amended—

1 (1) by redesignating paragraph (2) as para-
2 graph (3); and

3 (2) by adding after paragraph (1) the following:

4 “(2) The Secretary shall adjust the amount of indem-
5 nification provided under an agreement of indemnification
6 under subsection d. not less than once during each 5-year
7 period following July 1, 2002, in accordance with the ag-
8 gregate percentage change in the Consumer Price Index
9 since—

10 “(A) that date, in the case of the first adjust-
11 ment under this paragraph; or

12 “(B) the previous adjustment under this para-
13 graph.”.

14 **SEC. 4008. PRICE-ANDERSON TREATMENT OF MODULAR RE-**
15 **ACTORS.**

16 Section 170 b. of the Atomic Energy Act of 1954 (42
17 U.S.C. 2210(b)) is amended by adding at the end the fol-
18 lowing new paragraph:

19 “(5)(A) For purposes of this section only, the Com-
20 mission shall consider a combination of facilities described
21 in subparagraph (B) to be a single facility having a rated
22 capacity of 100,000 electrical kilowatts or more.

23 “(B) A combination of facilities referred to in sub-
24 paragraph (A) is 2 or more facilities located at a single
25 site, each of which has a rated capacity of 100,000 elec-

1 trical kilowatts or more but not more than 300,000 elec-
2 trical kilowatts, with a combined rated capacity of not
3 more than 1,300,000 electrical kilowatts.”.

4 **SEC. 4009. APPLICABILITY.**

5 The amendments made by sections 4003, 4004, and
6 4005 do not apply to a nuclear incident that occurs before
7 the date of enactment of this Act.

8 **SEC. 4010. PROHIBITION ON ASSUMPTION BY UNITED**
9 **STATES GOVERNMENT OF LIABILITY FOR**
10 **CERTAIN FOREIGN ACCIDENTS.**

11 Section 170 of the Atomic Energy Act of 1954 (42
12 U.S.C. 2210) is amended by adding at the end the fol-
13 lowing new subsection:

14 “u. PROHIBITION ON ASSUMPTION OF LIABILITY FOR
15 CERTAIN FOREIGN ACCIDENTS.—Notwithstanding this
16 section or any other provision of law, no officer of the
17 United States or of any department, agency, or instrumen-
18 tality of the United States Government may enter into any
19 contract or other arrangement, or into any amendment or
20 modification of a contract or other arrangement, the pur-
21 pose or effect of which would be to directly or indirectly
22 impose liability on the United States Government, or any
23 department, agency, or instrumentality of the United
24 States Government, or to otherwise directly or indirectly
25 require an indemnity by the United States Government,

1 for nuclear accidents occurring in connection with the de-
2 sign, construction, or operation of a production facility or
3 utilization facility in any country whose government has
4 been identified by the Secretary of State as engaged in
5 state sponsorship of terrorist activities (specifically includ-
6 ing any country the government of which, as of September
7 11, 2001, had been determined by the Secretary of State
8 under section 620A(a) of the Foreign Assistance Act of
9 1961, section 6(j)(1) of the Export Administration Act of
10 1979, or section 40(d) of the Arms Export Control Act
11 to have repeatedly provided support for acts of inter-
12 national terrorism).”.

13 **SEC. 4011. SECURE TRANSFER OF NUCLEAR MATERIALS.**

14 (a) AMENDMENT.—Chapter 14 of the Atomic Energy
15 Act of 1954 (42 U.S.C. 2201–2210b) is amended by add-
16 ing at the end the following new section:

17 “SEC. 170C. SECURE TRANSFER OF NUCLEAR MA-
18 TERIALS.—

19 “a. The Nuclear Regulatory Commission shall estab-
20 lish a system to ensure that, with respect to activities by
21 any party pursuant to a license issued under this Act—

22 “(1) materials described in subsection b., when
23 transferred or received in the United States—

24 “(A) from a facility licensed by the Nu-
25 clear Regulatory Commission;

1 “(B) from a facility licensed by an agree-
2 ment State; or

3 “(C) from a country with whom the United
4 States has an agreement for cooperation under
5 section 123,

6 are accompanied by a manifest describing the type
7 and amount of materials being transferred;

8 “(2) each individual transferring or accom-
9 panying the transfer of such materials has been sub-
10 ject to a security background check by appropriate
11 Federal entities; and

12 “(3) such materials are not transferred to or
13 received at a destination other than a facility li-
14 censed by the Nuclear Regulatory Commission or an
15 agreement State under this Act or other appropriate
16 Federal facility, or a destination outside the United
17 States in a country with whom the United States
18 has an agreement for cooperation under section 123.

19 “b. Except as otherwise provided by the Commission
20 by regulation, the materials referred to in subsection a.
21 are byproduct materials, source materials, special nuclear
22 materials, high-level radioactive waste, spent nuclear fuel,
23 transuranic waste, and low-level radioactive waste (as de-
24 fined in section 2(16) of the Nuclear Waste Policy Act
25 of 1982 (42 U.S.C. 10101(16))).”.

1 (b) REGULATIONS.—Not later than 1 year after the
2 date of the enactment of this Act, and from time to time
3 thereafter as it considers necessary, the Nuclear Regu-
4 latory Commission shall issue regulations identifying ra-
5 dioactive materials that, consistent with the protection of
6 public health and safety and the common defense and se-
7 curity, are appropriate exceptions to the requirements of
8 section 170C of the Atomic Energy Act of 1954, as added
9 by subsection (a) of this section.

10 (c) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall take effect upon the issuance of regu-
12 lations under subsection (b).

13 (d) EFFECT ON OTHER LAW.—Nothing in this sec-
14 tion or the amendment made by this section shall waive,
15 modify, or affect the application of chapter 51 of title 49,
16 United States Code, part A of subtitle V of title 49,
17 United States Code, part B of subtitle VI of title 49,
18 United States Code, and title 23, United States Code.

19 (e) TABLE OF SECTIONS AMENDMENT.—The table of
20 sections for chapter 14 of the Atomic Energy Act of 1954
21 is amended by adding at the end the following new item:

“Sec. 170C. Secure transfer of nuclear materials.”.

22 **SEC. 4012. NUCLEAR FACILITY THREATS.**

23 (a) STUDY.—The President, in consultation with the
24 Nuclear Regulatory Commission and other appropriate
25 Federal, State, and local agencies and private entities,

1 shall conduct a study to identify the types of threats that
2 pose an appreciable risk to the security of the various
3 classes of facilities licensed by the Nuclear Regulatory
4 Commission under the Atomic Energy Act of 1954. Such
5 study shall take into account, but not be limited to—

6 (1) the events of September 11, 2001;

7 (2) an assessment of physical, cyber, bio-
8 chemical, and other terrorist threats;

9 (3) the potential for attack on facilities by mul-
10 tiple coordinated teams of a large number of individ-
11 uals;

12 (4) the potential for assistance in an attack
13 from several persons employed at the facility;

14 (5) the potential for suicide attacks;

15 (6) the potential for water-based and air-based
16 threats;

17 (7) the potential use of explosive devices of con-
18 siderable size and other modern weaponry;

19 (8) the potential for attacks by persons with a
20 sophisticated knowledge of facility operations;

21 (9) the potential for fires, especially fires of
22 long duration; and

23 (10) the potential for attacks on spent fuel
24 shipments by multiple coordinated teams of a large
25 number of individuals.

1 (b) SUMMARY AND CLASSIFICATION REPORT.—Not
2 later than 180 days after the date of the enactment of
3 this Act, the President shall transmit to the Congress and
4 the Nuclear Regulatory Commission a report—

5 (1) summarizing the types of threats identified
6 under subsection (a); and

7 (2) classifying each type of threat identified
8 under subsection (a), in accordance with existing
9 laws and regulations, as either—

10 (A) involving attacks and destructive acts,
11 including sabotage, directed against the facility
12 by an enemy of the United States, whether a
13 foreign government or other person, or other-
14 wise falling under the responsibilities of the
15 Federal Government; or

16 (B) involving the type of risks that Nu-
17 clear Regulatory Commission licensees should
18 be responsible for guarding against.

19 (c) FEDERAL ACTION REPORT.—Not later than 90
20 days after the date on which a report is transmitted under
21 subsection (b), the President shall transmit to the Con-
22 gress a report on actions taken, or to be taken, to address
23 the types of threats identified under subsection (b)(2)(A).
24 Such report may include a classified annex as appropriate.

1 (d) REGULATIONS.—Not later than 270 days after
2 the date on which a report is transmitted under subsection
3 (b), the Nuclear Regulatory Commission shall issue regu-
4 lations, including changes to the design basis threat, to
5 ensure that licensees address the threats identified under
6 subsection (b)(2)(B).

7 (e) PHYSICAL SECURITY PROGRAM.—The Nuclear
8 Regulatory Commission shall establish an operational
9 safeguards response evaluation program that ensures that
10 the physical protection capability and operational safe-
11 guards response for sensitive nuclear facilities, as deter-
12 mined by the Commission consistent with the protection
13 of public health and the common defense and security,
14 shall be tested periodically through Commission approved
15 or designed, observed, and evaluated force-on-force exer-
16 cises to determine whether the ability to defeat the design
17 basis threat is being maintained. For purposes of this sub-
18 section, the term “sensitive nuclear facilities” includes at
19 a minimum commercial nuclear power plants, including
20 associated spent fuel storage facilities, spent fuel storage
21 pools and dry cask storage at closed reactors, independent
22 spent fuel storage facilities and geologic repository oper-
23 ations areas, category I fuel cycle facilities, and gaseous
24 diffusion plants.

1 (f) CONTROL OF INFORMATION.—In carrying out this
2 section, the President and the Nuclear Regulatory Com-
3 mission shall control the dissemination of restricted data,
4 safeguards information, and other classified national secu-
5 rity information in a manner so as to ensure the common
6 defense and security, consistent with chapter 12 of the
7 Atomic Energy Act of 1954.

8 **SEC. 4013. UNREASONABLE RISK CONSULTATION.**

9 Section 170 of the Atomic Energy Act of 1954 (42
10 U.S.C. 2210) is amended by adding at the end the fol-
11 lowing new subsection:

12 “v. UNREASONABLE RISK CONSULTATION.—(1) Be-
13 fore entering into an agreement of indemnification under
14 this section with respect to a utilization facility, the Nu-
15 clear Regulatory Commission shall consult with the Assist-
16 ant to the President for Homeland Security (or any suc-
17 cessor official) concerning whether the location of the pro-
18 posed facility and the design of that type of facility ensure
19 that the facility provides for adequate protection of public
20 health and safety if subject to a terrorist attack.

21 “(2) Before issuing a license or a license renewal for
22 a sensitive nuclear facility, the Nuclear Regulatory Com-
23 mission shall consult with the Secretary of Homeland Se-
24 curity or his designee concerning the emergency evacu-
25 ation plan for the communities living near the sensitive

1 nuclear facility. For purposes of this paragraph, the term
2 ‘sensitive nuclear facility’ has the meaning given that term
3 in section 4012 of the Energy Policy Act of 2003.”.

4 **SEC. 4014. FINANCIAL ACCOUNTABILITY.**

5 (a) AMENDMENT.—Section 170 of the Atomic En-
6 ergy Act of 1954 (42 U.S.C. 2210) is amended by adding
7 at the end the following new subsection:

8 “w. FINANCIAL ACCOUNTABILITY.—(1) Notwith-
9 standing subsection d., the Attorney General may bring
10 an action in the appropriate United States district court
11 to recover from a contractor of the Secretary (or subcon-
12 tractor or supplier of such contractor) amounts paid by
13 the Federal Government under an agreement of indem-
14 nification under subsection d. for public liability resulting
15 from conduct which constitutes intentional misconduct of
16 any corporate officer, manager, or superintendent of such
17 contractor (or subcontractor or supplier of such con-
18 tractor).

19 “(2) The Attorney General may recover under para-
20 graph (1) an amount not to exceed the amount of the prof-
21 it derived by the defendant from the contract.

22 “(3) No amount recovered from any contractor (or
23 subcontractor or supplier of such contractor) under para-
24 graph (1) may be reimbursed directly or indirectly by the
25 Department of Energy.

1 “(4) Paragraph (1) shall not apply to any nonprofit
2 entity conducting activities under contract for the Sec-
3 retary.

4 “(5) No waiver of a defense required under this sec-
5 tion shall prevent a defendant from asserting such defense
6 in an action brought under this subsection.

7 “(6) The Secretary shall, by rule, define the terms
8 ‘profit’ and ‘nonprofit entity’ for purposes of this sub-
9 section. Such rulemaking shall be completed not later than
10 180 days after the date of the enactment of this sub-
11 section.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall not apply to any agreement of indem-
14 nification entered into under section 170 d. of the Atomic
15 Energy Act of 1954 (42 U.S.C. 2210(d)) before the date
16 of the enactment of this Act.

17 **SEC. 4015. CIVIL PENALTIES.**

18 (a) REPEAL OF AUTOMATIC REMISSION.—Section
19 234A b. (2) of the Atomic Energy Act of 1954 (42 U.S.C.
20 2282a(b)(2)) is amended by striking the last sentence.

21 (b) LIMITATION FOR NONPROFIT INSTITUTIONS.—
22 Subsection d. of section 234A of the Atomic Energy Act
23 of 1954 (42 U.S.C. 2282a(d)) is amended to read as fol-
24 lows:

1 “d. Notwithstanding subsection a., a civil penalty for
2 a violation under subsection a. shall not exceed the amount
3 of any discretionary fee paid under the contract under
4 which such violation occurs for any nonprofit contractor,
5 subcontractor, or supplier—

6 “(1) described in section 501(c)(3) of the Inter-
7 nal Revenue Code of 1986 and exempt from tax
8 under section 501(a) of such Code; or

9 “(2) identified by the Secretary by rule as ap-
10 propriate to be treated the same under this sub-
11 section as an entity described in paragraph (1), con-
12 sistent with the purposes of this section.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall not apply to any violation of the Atomic
15 Energy Act of 1954 occurring under a contract entered
16 into before the date of the enactment of this Act.

17 (d) RULEMAKING.—Not later than 6 months after
18 the date of the enactment of this Act, the Secretary of
19 Energy shall issue a rule for the implementation of the
20 amendment made by subsection (b).

21 **Subtitle B—Miscellaneous Matters**

22 **SEC. 4021. LICENSES.**

23 Section 103 c. of the Atomic Energy Act of 1954 (42
24 U.S.C. 2133(c)) is amended by inserting “from the au-
25 thorization to commence operations” after “forty years”.

1 **SEC. 4022. NUCLEAR REGULATORY COMMISSION MEET-**
2 **INGS.**

3 If a quorum of the Nuclear Regulatory Commission
4 gathers to discuss official Commission business the discus-
5 sions shall be recorded, and the Commission shall notify
6 the public of such discussions within 15 days after they
7 occur. The Commission shall promptly make a transcript
8 of the recording available to the public on request, except
9 to the extent that public disclosure is exempted or prohib-
10 ited by law. This section shall not apply to a meeting,
11 within the meaning of that term under section 552b(a)(2)
12 of title 5, United States Code.

13 **SEC. 4023. NRC TRAINING PROGRAM.**

14 (a) IN GENERAL.—In order to maintain the human
15 resource investment and infrastructure of the United
16 States in the nuclear sciences, health physics, and engi-
17 neering fields, in accordance with the statutory authorities
18 of the Commission relating to the civilian nuclear energy
19 program, the Nuclear Regulatory Commission shall carry
20 out a training and fellowship program to address short-
21 ages of individuals with critical nuclear safety regulatory
22 skills.

23 (b) AUTHORIZATION OF APPROPRIATIONS.—

24 (1) IN GENERAL.—There are authorized to be
25 appropriated to carry out this section \$1,000,000 for
26 each of fiscal years 2004 through 2007.

1 (2) AVAILABILITY.—Funds made available
2 under paragraph (1) shall remain available until ex-
3 pended.

4 **SEC. 4024. COST RECOVERY FROM GOVERNMENT AGEN-**
5 **CIES.**

6 Section 161 w. of the Atomic Energy Act of 1954
7 (42 U.S.C. 2201(w)) is amended—

8 (1) by striking “for or is issued” and all that
9 follows through “1702” and inserting “to the Com-
10 mission for, or is issued by the Commission, a li-
11 cense or certificate”;

12 (2) by striking “483a” and inserting “9701”;
13 and

14 (3) by striking “, of applicants for, or holders
15 of, such licenses or certificates”.

16 **SEC. 4025. ELIMINATION OF PENSION OFFSET.**

17 Section 161 of the Atomic Energy Act of 1954 (42
18 U.S.C. 2201) is amended by adding at the end the fol-
19 lowing:

20 “y. exempt from the application of sections
21 8344 and 8468 of title 5, United States Code, an
22 annuitant who was formerly an employee of the
23 Commission who is hired by the Commission as a
24 consultant, if the Commission finds that the annu-

1 itant has a skill that is critical to the performance
2 of the duties of the Commission.”.

3 **SEC. 4026. CARRYING OF FIREARMS BY LICENSEE EMPLOY-**
4 **EES.**

5 Section 161k. of the Atomic Energy Act of 1954 (42
6 U.S.C. 2201(k)) is amended to read as follows:

7 “k. authorize such of its members, officers, and
8 employees as it deems necessary in the interest of
9 the common defense and security to carry firearms
10 while in the discharge of their official duties. The
11 Commission may also authorize—

12 “(1) such of those employees of its con-
13 tractors and subcontractors (at any tier) en-
14 gaged in the protection of property under the
15 jurisdiction of the United States located at fa-
16 cilities owned by or contracted to the United
17 States or being transported to or from such fa-
18 cilities as it deems necessary in the interests of
19 the common defense and security; and

20 “(2) such of those employees of persons li-
21 censed or certified by the Commission (includ-
22 ing employees of contractors of licensees or cer-
23 tificate holders) engaged in the protection of
24 property of (A) facilities owned or operated by
25 a Commission licensee or certificate holder that

1 are designated by the Commission, or (B) prop-
2 erty of significance to the common defense and
3 security located at facilities owned or operated
4 by a Commission licensee or certificate holder
5 or being transported to or from such facilities;
6 to carry firearms while in the discharge of their offi-
7 cial duties. A person authorized to carry firearms
8 under this subsection may, while in the performance
9 of, and in connection with, official duties, make ar-
10 rests without warrant for any offense against the
11 United States committed in that person's presence
12 or for any felony cognizable under the laws of the
13 United States if that person has reasonable grounds
14 to believe that the individual to be arrested has com-
15 mitted or is committing such felony. An employee of
16 a contractor or subcontractor or of a Commission li-
17 censee or certificate holder (or a contractor of a li-
18 censee or certificate holder) authorized to carry fire-
19 arms under this subsection may make such arrests
20 only when the individual to be arrested is within, or
21 in direct flight from, the area of such offense. A per-
22 son granted authority to make arrests by this sub-
23 section may exercise that authority only in the en-
24 forcement of laws regarding the property of the
25 United States in the custody of the Department of

1 Energy, the Nuclear Regulatory Commission, or a
2 contractor of the Department of Energy or Nuclear
3 Regulatory Commission or of a licensee or certificate
4 holder of the Commission, laws applicable to facili-
5 ties owned or operated by a Commission licensee or
6 certificate holder that are designated by the Com-
7 mission pursuant to this subsection and property of
8 significance to the common defense and security that
9 is in the custody of a licensee or certificate holder
10 or a contractor of a licensee or certificate holder of
11 the Commission, or any provision of this Act that
12 may subject an offender to a fine, imprisonment, or
13 both. The arrest authority conferred by this sub-
14 section is in addition to any arrest authority under
15 other laws. The Secretary and the Commission, with
16 the approval of the Attorney General, shall issue
17 guidelines to implement this subsection;”.

18 **SEC. 4027. UNAUTHORIZED INTRODUCTION OF DANGEROUS**
19 **WEAPONS.**

20 Section 229a. of the Atomic Energy Act of 1954 (42
21 U.S.C. 2278a(a)) is amended by adding after “custody of
22 the Commission” the following: “or subject to its licensing
23 authority or to certification by the Commission under this
24 Act or any other Act”.

1 **SEC. 4028. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.**

2 Section 236a. of the Atomic Energy Act of 1954 (42
3 U.S.C. 2284(a)) is amended to read as follows:

4 “a. Any person who intentionally and willfully de-
5 stroys or causes physical damage to, or who intentionally
6 and willfully attempts to destroy or cause physical damage
7 to—

8 “(1) any production facility or utilization facil-
9 ity licensed under this Act;

10 “(2) any nuclear waste storage, treatment, or
11 disposal facility licensed under this Act;

12 “(3) any nuclear fuel for a utilization facility li-
13 censed under this Act or any spent nuclear fuel from
14 such a facility;

15 “(4) any uranium enrichment or nuclear fuel
16 fabrication facility licensed or certified by the Nu-
17 clear Regulatory Commission; or

18 “(5) any production, utilization, waste storage,
19 waste treatment, waste disposal, uranium enrich-
20 ment, or nuclear fuel fabrication facility subject to
21 licensing or certification under this Act during its
22 construction where the destruction or damage
23 caused or attempted to be caused could affect public
24 health and safety during the operation of the facil-
25 ity,

1 shall be fined not more than \$1,000,000 or imprisoned
2 for up to life in prison without parole, or both.”.

3 **SEC. 4029. COOPERATIVE RESEARCH AND DEVELOPMENT**
4 **AND SPECIAL DEMONSTRATION PROJECTS**
5 **FOR THE URANIUM MINING INDUSTRY.**

6 (a) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Secretary of En-
8 ergy \$10,000,000 for each of fiscal years 2004, 2005, and
9 2006 for—

10 (1) cooperative, cost-shared agreements between
11 the Department of Energy and domestic uranium
12 producers to identify, test, and develop improved in
13 situ leaching mining technologies, including low-cost
14 environmental restoration technologies that may be
15 applied to sites after completion of in situ leaching
16 operations; and

17 (2) funding for competitively selected dem-
18 onstration projects with domestic uranium producers
19 relating to—

20 (A) enhanced production with minimal en-
21 vironmental impacts;

22 (B) restoration of well fields; and

23 (C) decommissioning and decontamination
24 activities.

1 (b) DOMESTIC URANIUM PRODUCER.—For purposes
2 of this section, the term ‘domestic uranium producer’ has
3 the meaning given that term in section 1018(4) of the En-
4 ergy Policy Act of 1992 (42 U.S.C. 2296b–7(4)), except
5 that the term shall not include any producer that has not
6 produced uranium from domestic reserves on or after July
7 30, 1998.

8 **SEC. 4030. URANIUM SALES.**

9 (a) RESTRICTIONS ON INVENTORY SALES.—Section
10 3112(d) of the USEC Privatization Act (42 U.S.C.
11 2297h–10(d)) is amended to read as follows:

12 “(d) INVENTORY SALES.—(1) In addition to the
13 transfers and sales authorized under subsections (b), (c),
14 and (e), the Secretary of Energy or the Secretary of the
15 Army may transfer or sell uranium subject to paragraph
16 (2).

17 “(2) Except as provided in subsections (b), (c), and
18 (e), no sale or transfer of uranium shall be made under
19 this subsection by the Secretary of Energy or the Sec-
20 retary of the Army unless—

21 “(A) the President determines that the material
22 is not necessary for national security needs;

23 “(B) the price paid to the appropriate Sec-
24 retary, if the transaction is a sale, will not be less
25 than the fair market value of the material; and

1 “(C) the sale or transfer to end users is made
2 pursuant to a contract of at least 3 years duration.

3 “(3) The Secretary of Energy shall not make any
4 transfer or sale of uranium under this subsection that
5 would cause the total amount of uranium transferred or
6 sold pursuant to this subsection that is delivered for con-
7 sumption by end users to exceed—

8 “(A) 3 million pounds of U_3O_8 equivalent in fis-
9 cal year 2004, 2005, 2006, 2007, 2008, or 2009;

10 “(B) 5 million pounds of U_3O_8 equivalent in
11 fiscal year 2010 or 2011;

12 “(C) 7 million pounds of U_3O_8 equivalent in fis-
13 cal year 2012; and

14 “(D) 10 million pounds of U_3O_8 equivalent in
15 fiscal year 2013 or any fiscal year thereafter.

16 “(4) For the purposes of this subsection, the recovery
17 of uranium from uranium bearing materials transferred
18 or sold by the Secretary of Energy or the Secretary of
19 the Army to the domestic uranium industry shall be the
20 preferred method of making uranium available. The recov-
21 ered uranium shall be counted against the annual max-
22 imum deliveries set for in this section, when such uranium
23 is sold to end users.”.

24 (b) TRANSFERS TO CORPORATION.—Section 3112 of
25 the USEC Privatization Act (42 U.S.C. 2297h–10) is fur-

1 ther amended by adding at the end the following new sub-
2 section:

3 “(g) TRANSFERS TO CORPORATION.—Notwith-
4 standing subsection (b)(2) and subsection (d)(2), the Sec-
5 retary may transfer up to 9,550 metric tons of uranium
6 to the Corporation to replace uranium that the Secretary
7 transferred to the Corporation on or about June 30, 1993,
8 April 20, 1998, and May 18, 1998, and that does not meet
9 commercial specifications.”.

10 (c) SERVICES.—Section 3112 of the USEC Privatiza-
11 tion Act (42 U.S.C. 2297h–10) is further amended by
12 adding at the end the following new subsection:

13 “(h) SERVICES.—(1) Notwithstanding any other pro-
14 vision of this section, if the Secretary determines that if
15 the Corporation has failed, or may fail, to perform any
16 obligation under the Agreement between the Department
17 of Energy and the Corporation dated June 17, 2002, and
18 as amended thereafter, which failure could result in termi-
19 nation of the Agreement, the Secretary shall notify the
20 Committee on Energy and Commerce of the House of
21 Representatives and the Committee on Energy and Nat-
22 ural Resources of the Senate, in such a manner that af-
23 fords the Committees an opportunity to comment, prior
24 to a determination by the Secretary whether termination,
25 waiver, or modification of the Agreement is required. The

1 Secretary is authorized to take such action as he deter-
2 mines necessary under the Agreement to terminate, waive,
3 or modify provisions of the Agreement to achieve its pur-
4 poses.

5 “(2) Notwithstanding any other provision of this sec-
6 tion, if the Secretary determines in accordance with Arti-
7 cle 2D of the Agreement between the Department of En-
8 ergy and the Corporation dated June 17, 2002, and as
9 amended thereafter, to transition operation of the Padu-
10 cah gaseous diffusion plant, the Secretary may provide
11 uranium enrichment services in a manner consistent with
12 Article 2D of such Agreement.”.

13 (d) REPORT.—Within 3 years after the date of enact-
14 ment of this Act, the Secretary shall report to the Con-
15 gress on the implementation of this section. The report
16 shall include a discussion of available excess uranium in-
17 ventories, all sales or transfers made by the Secretary of
18 Energy or the Secretary of the Army, the impact of such
19 sales or transfers on the domestic uranium industry, the
20 spot market uranium price, and the national security in-
21 terests of the United States, and any steps taken to reme-
22 diate any adverse impacts of such sales or transfers.

23 **SEC. 4031. MEDICAL ISOTOPE PRODUCTION.**

24 Section 134 of the Atomic Energy Act of 1954 (42
25 U.S.C. 2160d) is amended—

1 (1) by redesignating subsection b. as subsection
2 f.;

3 (2) by inserting after subsection a. the fol-
4 lowing:

5 “b. The Commission may issue a license authorizing
6 the export (including shipment to and use at intermediate
7 and ultimate consignees specified in the license) to a Re-
8 cipient Country of highly enriched uranium for medical
9 isotope production if, in addition to any other require-
10 ments of this Act, the Commission determines that—

11 “(1) a Recipient Country that supplies an as-
12 surance letter to the United States Government in
13 connection with the Commission’s consideration of
14 the export license application has informed the
15 United States Government that any intermediate
16 consignees and the ultimate consignee specified in
17 the application are required to use such highly en-
18 riched uranium solely to produce medical isotopes;
19 and

20 “(2) the highly enriched uranium for medical
21 isotope production will be irradiated only in a reac-
22 tor in a Recipient Country that—

23 “(A) uses an alternative nuclear reactor
24 fuel; or

1 “(B) is the subject of an agreement with
2 the United States Government to convert to an
3 alternative nuclear reactor fuel when such fuel
4 can be used in that reactor.

5 “c. Applications to the Commission for licenses au-
6 thorizing the export to a Recipient Country of highly en-
7 riched uranium for medical isotope production shall be
8 subject to subsection b., and subsection a. shall not be ap-
9 plicable to such exports.

10 “d. The Commission is authorized to specify, by rule-
11 making or decision in connection with an export license
12 application, that a country other than a Recipient Country
13 may receive exports of highly enriched uranium for med-
14 ical isotope production in accordance with the same cri-
15 teria established by subsection b. for exports to a Recipi-
16 ent Country, upon the Commission’s finding that such ad-
17 ditional country is a party to the Treaty on the Non-
18 proliferation of Nuclear Weapons and the Convention on
19 the Physical Protection of Nuclear Material and will re-
20 ceive such highly enriched uranium pursuant to an agree-
21 ment with the United States concerning peaceful uses of
22 nuclear energy.

23 “e. The Commission shall review the adequacy of
24 physical protection requirements that are currently appli-
25 cable to the transportation of highly enriched uranium for

1 medical isotope production. If it determines that addi-
2 tional physical protection measures are necessary, includ-
3 ing any limits that the Commission finds are necessary
4 on the quantity of highly enriched uranium contained in
5 a single shipment for medical isotope production, the Com-
6 mission shall impose such requirements, as license condi-
7 tions or through other appropriate means.”; and

8 (3) in subsection f., as so redesignated by para-
9 graph (1) of this section—

10 (A) by striking “and” at the end of para-
11 graph (2);

12 (B) by striking the period at the end of
13 paragraph (3)(B) and inserting a semicolon;
14 and

15 (C) by adding at the end the following:

16 “(4) the term ‘medical isotopes’ means radio-
17 active isotopes, including Molybdenum 99, Iodine
18 131, and Xenon 133, that are used to produce radio-
19 pharmaceuticals for diagnostic or therapeutic proce-
20 dures on patients, or in connection with research
21 and development of radiopharmaceuticals;

22 “(5) the term ‘highly enriched uranium for
23 medical isotope production’ means highly enriched
24 uranium contained in, or for use in, targets to be ir-

1 radiated for the sole purpose of producing medical
2 isotopes;

3 “(6) the term ‘radiopharmaceuticals’ means ra-
4 dioactive isotopes containing byproduct material
5 combined with chemical or biological material that
6 are designed to accumulate temporarily in a part of
7 the body, for therapeutic purposes or for enabling
8 the production of a useful image of the appropriate
9 body organ or function for use in diagnosis of med-
10 ical conditions; and

11 “(7) the term ‘Recipient Country’ means Can-
12 ada, Belgium, France, Germany, and the Nether-
13 lands.”.